

MINUTES
REGULAR MEETING
CALIFORNIA ARCHITECTS BOARD

June 16, 2010

Sacramento, CA

A. CALL TO ORDER – ROLL CALL – ESTABLISHMENT OF A QUORUM

President Iris Cochlan called the meeting to order on June 16, 2010 at 9:35 a.m. Six members of the Board present constitute a quorum. There being four present at the start of the meeting, a quorum was not established until the sixth member arrived at 9:50 a.m. Roll call was taken later in the meeting after a quorum was established at 10:00 a.m.

Guests Present

Christine A. Anderson, Committee Member, Landscape Architects Technical Committee (LATC)
Erica Cano, Analyst, Board and Bureau Relations, Department of Consumer Affairs (DCA)
Kurt Cooknick, Director of Regulation and Practice, American Institute of Architects, California Council (AIACC)
Richard Conrad, Architect
Robert De los Reyes, Budget Analyst, DCA
Haley Gipe, Darden Architects/AIACC
Robert Holmgren, Office of Professional Examination Services (OPES), DCA
Kimberly Kirchmeyer, Deputy Director, Board and Bureau Relations, DCA
Sonja Merold, OPES, DCA
Tracy Montez, President, Applied Measurement Services (AMS)
Janice Shintaku-Enkoji, Fiscal Officer, Office of Administrative Services, DCA
Taryn Smith, Policy Consultant, California Senate Office of Research

Staff Present

Doug McCauley, Executive Officer
Justin Sotelo, Program Manager, Examination/Licensing Unit
Trish Rodriguez, Program Manager, LATC
Bob Carter, Architect Consultant
Hattie Johnson, Enforcement Officer
Marina Karzag, Special Projects Analyst, LATC
Anthony Lum, Administration Analyst
Annamarie Lyda, Secretary
Peter Merdinger, Enforcement Analyst
Sonja Ruffin, Enforcement Analyst
Matthew Wiggins, Enforcement Technician

Don Chang, Legal Counsel, DCA

B. PRESIDENT'S REMARKS

Ms. Cochlan welcomed everyone to the meeting and began with issues that did not require a quorum. She extended her appreciation to Jon Baker, the Board's prior president, with a gift of gratitude on behalf of the Board for his work and dedication as president. She also announced that Mr. Baker was elected to the National Council of Architectural Registration Boards (NCARB) Board of Directors, which will allow more involvement from California at the national level. Ms. Cochlan also stated that there would be a discussion regarding the California Supplemental Examination (CSE) transition.

C. DEPARTMENT OF CONSUMER AFFAIRS DIRECTOR'S REPORT

Ms. Cochlan introduced Kim Kirchmeyer, DCA Deputy Director, Board and Bureau Relations. Ms. Kirchmeyer presented an update on DCA's Consumer Protection Enforcement Initiative (CPEI) and stated that the effort is currently more directed toward the healing arts boards, but that there are a number of elements in the CPEI that actually impact the non-healing arts boards. She stated that the focus of CPEI is to reduce the average time to investigate a complaint until some form of disciplinary action is administered from three years for some of the healing arts boards down to 12 – 18 months.

She explained that the CPEI was developed with a three-pronged approach to reduce the processing times: administrative improvements, staffing and information technology resources, and legislative proposals. She stated that for the administrative improvements, there were 80 attendees at the last enforcement academy that consisted of eight days of training that reviewed the entire process from receipt of a complaint to the administration of disciplinary action. She stated that the intent of the academy was to prepare DCA's enforcement training program to appropriately train the new staff created by the enforcement Budget Change Proposal (BCP). She continued that the DCA Deputy Director of Enforcement and Compliance is reviewing the enforcement statistics and had been gathering them since January 2010. She added that he was meeting with the boards Executive Officers (EO) to review their statistics and discuss any issues where DCA could provide assistance. She also stated that DCA had developed a set of performance measures for enforcement functions that measure cycle time, volume of complaints, costs, customer service, and probation monitoring. She indicated that beginning July 1, 2010, all of the boards will need to begin reporting on the performance measures and, as of October 2010, they will be posted on each of the board's Web sites. She stated that the average of 12-18 months is a performance measure goal, but DCA is allowing the boards to set their own internal time goals for the amount of time it takes to process a complaint, the length of an investigation, and when to file an accusation, and include the goals within the reports to DCA.

Ms. Kirchmeyer stated that the DCA's BCP for the BreEZE project and additional staffing for the healing arts boards was approved. She explained that the BreEZE project is DCA's replacement for the current licensing and enforcement databases and the BCP authorized the appropriate resources to implement the system. She indicated that the Chief of the Office of Information Systems was giving presentations to the boards of how the system will operate, as they had concerns of how the BreEZE system would be implemented for the 38 unique boards.

Ms. Kirchmeyer stated that for staffing, the BCP was approved for 138 new positions for the 18 healing arts boards. She added that for the non-healing arts boards, DCA was looking to determine if a global BCP, similar to what was approved for the healing arts boards, would be needed for their programs.

She explained that the legislation (Senate Bill [SB] 1111 - McLeod) that was presented to the Legislature, died in committee, but the DCA Director had the DCA Legal Office are reviewing the bill to identify items that could possibly be implemented through regulations. She added that some of the items could be utilized by the non-healing arts boards (i.e., acceptance of the EO to sign off on license surrenders and default decisions rather than having them go to the board, unprofessional conduct, and others) as well.

Sheran Voigt voiced a concern regarding the posting of accusations on the Board's Web site. Ms. Kirchmeyer explained that once a board received a complaint, it went through a thorough investigation process. She continued that once the investigation was complete and there are reasons to continue the case, it is referred to the Attorney General's Office (AG) for processing. She added that once the AG's office reviews the case and determines there is evidence that substantiates a violation in the law, they can file an accusation. She explained that the accusation is a public document and that DCA is requesting it be posted on the Board's Web site to make it readily accessible to the public. She added that the disciplinary decision would also be posted to the Web site once the decision was final. Doug McCauley stated that the Board already publishes summaries of accusations and citations and that DCA's request is to fully disclose them proactively on the Web site. Don Chang indicated that boards that post accusations on their Web site also include a disclaimer that clearly identifies them as allegations, that there has not been a final determination of wrong-doing, that the matter is currently pending, and that the individual has a right to an attorney.

Ms. Kirchmeyer informed the Board that DCA is beginning to encourage members to vote by email on accusations, now that the capability exists and once it is implemented for the Board. She stated that it is currently being tested by the California Pharmacy Board where there is the ability to email the accusations and decisions to board members and reply with the votes by email through a secure portal. She also informed the Board that DCA is encouraging all of the Board members to attend the July 27, 2010 member training. She explained that the training would discuss governance. She indicated that she was going to obtain permission to utilize some of the items from the Board's meeting packets to incorporate into DCA's best practices board meeting agenda packet to show the members the appropriate types of items to be presented to a board. She added that there will also be discussion and review on the enforcement performance measures for the members and that many of the presentations during the day will be given by former board members and EOs.

Mr. Merino asked whether there will be an opportunity for a make-up training session if there is a conflict in scheduling for the July training. Ms. Kirchmeyer indicated that DCA is planning on conducting the member training on an annual basis and may video this session so that it, along with the training materials, could be provided for members who could not attend.

Ms. Cochlan officially called the meeting to order, as a quorum was established, and requested that the roll call be taken.

A.* CALL TO ORDER – ROLL CALL – ESTABLISHMENT OF A QUORUM

Secretary Marilyn Lyon called the roll once a quorum was established at 10:00 a.m.

Board Members Present

Jon Alan Baker

Iris Cochlan

Marilyn Lyon (arrived at 9:50 a.m.)

Michael Merino

Sheran Voigt

Hraztan Zeitlian (arrived at 9:50 a.m.)

Board Members Absent

Larry Guidi

Pasqual Gutierrez

Jeffrey Heller

D. Closed Session – Disciplinary Decisions and Exam Development Issues [Closed Session Pursuant to Government Code Sections 11126(c)(1) and (3)]

The Board went into closed session in order to consider action on two disciplinary cases. The Board: 1) adopted the Proposed Default Decision and Order in the Matter of the Accusation against Omar G. Siller; and 2) adopted the Proposed Decision in the Matter of the Modified Citation against David Choi.

E. PUBLIC COMMENT SESSION

Mr. McCauley requested the Board to delay the public comments until the AIACC representative could address the Board. The public comments that were received at the meeting took place in the discussions for Agenda Item H(3) – Fee Increases, and Agenda Item J – Enforcement Program Update, regarding the posting of the licensee's address of record on the Board's Web site.

F. ETHICS PRESENTATION

Mr. Chang stated that his presentation was on ethical decision making for DCA board members and that the intent is to provide members with the legal framework for addressing ethical situations that commonly arise for board members. He indicated that the objectives of his presentation were to create an awareness of ethical dilemmas a board member may encounter and to suggest strategies to help resolve those dilemmas. He reviewed two areas of the law which are the Open Meetings Act and situations where a member should not participate in board actions due to some disqualifying factor.

G. APPROVE THE MARCH 18, 2010 AND MAY 6, 2010 BOARD MEETING MINUTES

Ms. Cochlan called for a motion to approve the March 18, 2010 and May 6, 2010 Board Meeting Minutes. Mr. Merino requested to record his abstention from voting on the minutes, as he was not present at either meeting. Mr. Baker stated that he would also abstain from the March meeting

minutes vote since he was not present at that meeting. Mr. Merino suggested separate motions for each of the meeting minutes since there were abstentions made. Mr. Chang requested to make one edit to the March meeting minutes. He stated that on page 16, under Ethics Presentation, in the second to the last sentence in the first paragraph, the fourth “as” should be replaced with “when.” Mr. McCauley asked Mr. Chang whether a minimum of five votes are needed to pass the motion. Mr. Chang stated that five votes are needed to pass a motion; however, the abstentions would count toward passing the motion on this issue.

- **Sheran Voigt moved to approve the March 18, 2010 Board Meeting Minutes.**

Hraztan Zeitlian seconded the motion.

The motion passed 4-0-2 (Jon Baker and Michael Merino abstained).

Ms. Cochlan called for a motion to approve the May 6, 2010 meeting minutes.

- **Sheran Voigt moved to approve the May 6, 2010 Board Meeting Minutes.**

Hraztan Zeitlian seconded the motion.

The motion passed 5-0-1 (Michael Merino abstained).

H. EXECUTIVE OFFICER’S REPORT

Mr. McCauley stated that the latest report was in the Board packet and that he would review its highlights. He proceeded to welcome and introduce Trish Rodriguez, the new LATC Program Manager, and stated that she is quickly learning the program because of the Sunset Review process this year.

Mr. McCauley stated that there was information for the July 27, 2010 DCA Board Member Training emailed to all of the members instructing them to RSVP. Mr. Zeitlian asked Mr. McCauley how this training differed in comparison to the Board member orientation training he attended nine months ago and will the training be an annual mandatory training. Mr. McCauley stated that the first training was the new board member orientation training. Ms. Kirchmeyer indicated that DCA would like to have the training on an annual basis, but it depended upon the interests of the current administration. Mr. Zeitlian asked if the July training was independent of any of the other trainings the members had received. Ms. Kirchmeyer acknowledged that it was. Mr. Merino stated that the information that he received on the July training indicated a “mandatory” training, but he had not heard any reason for the training to be mandatory and asked the reason why it was mandatory. Ms. Kirchmeyer stated that the board member orientation training is required within one year of being appointed. She continued that the July training is not legally mandated, but highly encouraged that members attend the training and would be very informative for members to understand their roles and governance and to help them with the issues of being a board member. Mr. Merino stated that he understood the importance of the training, however, questioned the use of “mandatory,” as it is distinctive and legalistic and wanted to make sure that if it is mandatory that there is a reason for it.

Mr. McCauley reported that new additional expenditures, like the BreEZe project, which is DCA's new, all-encompassing data management system, can impact the Board's fund in the future. He stated that although this and other possible program issues are valuable, it did create a challenge to project for future expenditures. He also stated that the deadline for the Legislature to approve a new 2010/11 budget had passed (June 15, 2010) and anticipated that the impasse could proceed throughout the summer since there is a \$19 billion deficit.

Mr. McCauley reported that the Executive Committee met on June 2, 2010 primarily to review and make recommendations on the 2010 Sunset Review Report. He indicated that the Committee spent many hours reviewing every page of the draft report to ensure it adequately explains the Board's programs and justifies the Board's statistics. He stated that the new report is largely based upon the 2003 Sunset Review Report. He indicated that he will discuss the Sunset report in more detail under Agenda Item H(2).

Mr. McCauley reported that the latest Board newsletter was published in an electronic format and to increase its readership, the Board sent postcards to inform individuals that the newsletter was on the Board's Web site and to encourage they subscribe to the email notification system.

Mr. McCauley updated the Board on AIACC's continuing education (CE) bill [Assembly Bill (AB) 1746 - Emmerson]. He reported that the bill was approved by the Senate Business, Professions and Economic Development Committee. He stated that the prior CE bill, SB 1608 (Chapter 549, Statutes of 2008), requires architects to complete CE on disabled access for their license renewal, but the language required that all 22,000 licensees submit documentation to the Board indicating the CE provider, course content, number of hours, and the instructor's name and qualifications. He stated that administratively, it is a labor-intensive task to review all of the CE documents, which resulted in delays to the renewal process, etc. He reported that the new processing method proposed in AB 1746 would have most of the licensees renewed in a more streamlined manner involving a certification of compliance, but have a random audit of a small sample of licensees. He continued that the random audit process is the same model that most other licensing boards are using in California and across the nation.

Mr. McCauley reported that other legislation that was reviewed was Sunset bills that would reconstitute the former Joint Sunset Review Committee or create other methodologies for reviewing boards' performance and expected at least one bill to progress. He reported that there was also another cross-cutting bill that involved the suspension of California licenses of all the licensed professions such as doctors, accountants, architects, etc. that do not pay their taxes. He stated that the Board did not take a position on any of the bills he discussed.

Mr. McCauley reported that the Examination Committee issues will be discussed later in the meeting under a separate agenda item and that Robert Holmgren from the OPES was present to discuss the exam workshops that the Board has been conducting. He stated that Tracy Montez of AMS was also present and would elaborate on other California Supplemental Examination (CSE) implementation issues.

Mr. McCauley reported that in enforcement, staff has been working to improve the caseload statistics, particularly the number of pending cases which was as high as 300 and that the

enforcement staff have worked to reduce the number to 176 pending cases. He stated that the work has been done with essentially the same resources, as there had not been any new enforcement resources authorized for the non-healing arts boards. He stated that the LATC is in the same situation as the Board, since they have received an influx of unlicensed practice cases and are currently processing them.

Mr. McCauley reported that for Sunset Review, it would be the third time the Board has gone through the process. He explained that the process is where the Legislature exercises its oversight responsibilities and reviews all of the services and programs to ensure that the boards are complying with their statutes, adhering to their mission, and are efficient and effective. He stated that the questionnaire included in the Board meeting packet indicated the questions that need to be answered and the resulting document is the Sunset Review Report. He reported that the format and content is similar to what was used for the 2003 Sunset Review Report. He explained that when the report is completed, it will be submitted to the Legislature on or before October 1, 2010, and then sometime in December, the first committee hearing will take place. He stated that the Board President, Vice-President, and himself will present the Sunset Review Report to the Legislature at the hearing so that there will be representation by a public member, an architect member, and the EO. He continued that approximately two weeks prior to the hearing, the Sunset Committee will provide a list of issues to the Board for clarification of items in the report. He continued that at the hearing, the Board representatives would have an opportunity to address the committee's issues.

Mr. McCauley stated that subsequent to the hearing, DCA would complete its review of the Sunset Review Report and the Board would probably need to respond to additional questions at a second hearing sometime in early spring 2011. He added that there will probably be a third hearing where a vote is taken to decide whether the Board should be continued, whether there are any policy changes that should be reflected in the law, etc. He explained that these were the procedural steps that the Board will need to take through the Sunset process.

Christine Anderson asked whether LATC's Sunset Review Report is submitted at the same time as the Board's report. Mr. McCauley stated that LATC's report is separate from the Board's, but is submitted at the same time. He indicated that LATC and the Board are separate entities with practice acts, distinct staffs and budgets, and are working on the report with a team approach between the Board and LATC. He added that LATC's timeline to complete the draft report is about a month behind the Board's, as LATC will not review their draft until the end of July.

Mr. McCauley reported that the Executive Committee thoroughly reviewed the Board's draft report and recommended some edits. He started his review with the background section where Ms. Voigt asked why enforcement was not included in the Background and Overview section. She recommended a bulleted line in the highlighted Background and Description of the Board section for enforcement, since it was a large part of the Board's mission. Mr. McCauley agreed and indicated that staff will utilize all of the members' feedback on the draft report and edit the document with tracked changes for a final review at the September meeting. Mr. Zeitlian asked why the licensing numbers between 2007/08 and 2008/09 were the same. Mr. McCauley indicated that the fiscal year for 2009/10 is not complete and the data for the year will be available in about a month. He also indicated that there may be situations where an average is utilized to report a number for a certain time period. He added that the final version of the report that will be presented at the September

meeting will include the numbers for 2009/10. Mr. Zeitlian asked if the numbers were a placeholder. Mr. McCauley indicated that the numbers were a placeholder. Mr. Merino stated that the Executive Committee's section on page five of the Background and Budget section does not indicate who the Committee is comprised of and suggested that it could be helpful to know what officers are on the Committee. Mr. McCauley agreed and stated that it is a topic listed in the Board member procedure manual and good to note that the Board values its public members.

Mr. Merino asked whether members of the Executive Committee will provide testimony to the Legislature in support of the report. Mr. McCauley indicated that the Board President and EO will provide a summary of the report to the Legislature and then in more detail, respond to the specific issues they present to the Board prior to the hearing. He stated that these are the only representatives of the Board that speak at the hearing. He explained that Part II, Final Recommendations, of the prior Sunset Review is an example of the issues that the Legislature may ask.

Ms. Voigt indicated that there may be a problem with the listing of the Board members on page four of part one in the report. She stated that the members are listed and the dates of when they were appointed and reappointed, but that the dates for some members do not line up, as there is no reappointment date for Ms. Cochlan. Mr. McCauley indicated that he would verify the dates for the members and correct them prior to the next report review. Mr. Baker stated that he thought he completed another member's term prior to being reappointed and if that was the case, his appointment dates need correction.

Ms. Lyon asked whether the Senate Business, Professions and Economic Development (Senate B,P & ED) Committee would ask questions at the legislative hearing. Mr. McCauley indicated that the Committee could ask questions at the hearing. Ms. Lyon asked whether anyone knew who was on the Committee. Mr. McCauley indicated that it was the Senate B,P & ED Committee if anyone wanted to know who is on the Committee.

Mr. McCauley reported that the Board's Executive Committee had some changes to the licensing section of the report. He stated that the licensing section explains the basic licensure requirements, the five-years of educational/experience, internship, and the examinations. He stated that one primary section that the Committee still had to address was in regard to the Intern Development Program (IDP). He indicated that IDP had vastly improved since 2003 and indicated how IDP 2.0 enhanced the program. He also underscored the follow-up responses to findings in the 2003 Sunset Review explained the reasons to justify the removal of the IDP Sunset date.

Mr. McCauley reported that revisions were made to the Architectural Registration Examination (ARE) section of the report due to the changes that have occurred (e.g., ARE 4.0, rolling clock, etc.) and one issue that needed further explanation was the reason for California's lower pass rates. He stated that California's ARE pass rates are lower than the national average and other states due to multiple pathways of entry to the exam and rather than concentrate on a particular reason for the low pass rates, the Committee determined that it was due to a variety of reasons, not just one (i.e., firm at which internship took place, sequence divisions are taken, how recently the candidate completed school, etc.).

Mr. McCauley reported that there had been significant discussions about the CSE and that it had been an issue the prior two times through the Sunset Review process. He stated that the challenge was having to justify why the CSE was needed and why it was administered in an oral format. He reported that the report explains that the CSE has been converted from an oral format to a written, computer-based exam and relied on a study conducted by AMS indicating that converting the oral exam to a computer-based exam was the appropriate choice. Mr. Merino inquired when the computer-based testing would begin. Mr. McCauley stated that the last CSE oral administration would take place in November 2010 and then the computer-based exam is expected to begin in February 2011. Mr. McCauley then reviewed the ARE pass rates that are shown in the report.

Mr. McCauley reported that the enforcement section of the report will have the most focus for this Sunset Review. He stated that the report explained the Board's enforcement philosophy, Strategic Plan objectives, regulatory enhancements, and enforcement goals. He stated that at the last Board meeting, Mr. Zeitlian asked what attributed to the progress of decreasing the pending enforcement caseload. Mr. McCauley indicated that the reason the enforcement caseload has decreased could be attributed to the Board opting to forgo any major new regulatory initiatives (e.g. defining public welfare, design/build study, etc). He explained that regulatory exercises and completing regulation packages redirects staff resources away from working cases. Mr. Merino stated that if the Board focused on ways to collect on citations and fines that the Board pursued through the regulatory process, it would be a means of consumer protection and a deterrent for unlicensed practice. He stated that the consumer protection part of the Board's mandate would be an issue that a legislative body like the Senate Business, Professions and Economic Development Committee would want to hear about.

Mr. McCauley reported that the Board's enforcement program is distinctly different than other board programs, especially when compared to the healing arts boards. He explained that the architect profession is very different than a doctor, podiatrist, or nurse, as they have direct access to pharmaceuticals, one-on-one patient contact, and have problems such as inappropriate contact or other similar issues. He continued that the architectural profession has a rigorous, structured licensing system that helps to eliminate substandard individuals and that in the profession, there are also checks and balances or safety nets that occur such as plans reviewed by a local building department or Division of the State Architect to identify potential problems. He stated that the profession's checks and balances enable the Board to alleviate itself of a large enforcement burden, so the enforcement numbers will be different (lower) than those of the healing arts boards. He reported that this enabled the Board to invest more of the available resources toward the licensing and examination programs to ensure that qualified individuals enter the profession to avoid future problems.

Mr. McCauley reported that the new Sunset Review Report inquires about the unique reporting requirements, the settlement report issues, and the statistical data. He stated that without additional resources, the Board managed to progress and reduce the number of pending cases and the time it took to investigate many of them. He indicated that DCA's standard for processing cases was 12 – 18 months, but the Board was under 12 months in the most recent monthly report submitted to DCA. He reported that the case processing time will not always be this good because the reality is that cases that need to go to the AG Office or Division of Investigation (DOI) can be pending in their offices for

a long time before being processed or investigated. He stated that to avoid such delays, the Board is relying more on internal desk investigations for staff and the architect consultants to process.

Mr. McCauley then reported on the complaint satisfaction survey results. He stated that the Board knew the satisfaction statistics from the survey would not be impressive because consumers usually want to resolve the issue with a license revocation and for their money to be returned. He explained that unless there was an egregious case for revocation, the Board could not revoke the license. He added that the Board is not a collection agency or empowered to perform this function, so returning money is not an option and the consumer would need to obtain a judgment and pursue the issue in the civil arena. He reported that many of the consumers who responded to the survey were dissatisfied with the outcome sought something outside the Board's authority. Accordingly, he stated that the current survey did not request adequate information, so two questions were added to the survey to help understand the consumers' responses. He stated that one additional question was whether the consumers' intent was to get their money back. He reported that staff is still assembling the data for the current report, but wanted to make the Board aware of the survey results from the last report. He stated that one idea to improve the results for the next report is to have the Regulatory and Enforcement Committee explore giving consumers more information on what to do if the complaint focuses on a financial issue, such as information on how to pursue their claim through small claims court.

Ms. Lyon asked whether the Board can control the content of the questions in the complainant satisfaction survey. Mr. McCauley indicated that the question content is not controlled by the Board, but are from the Sunset Review Committee. He explained that in order to understand the responses in the survey are negative, the Board asks the consumer what the primary reason for filing the complaint, whether it was an issue that the Board had no authority over, and what the Board could do to improve the complaint process. Ms. Lyon asked where the explanation of the additional survey questions is located on the survey. Mr. McCauley indicated that the explanation is in the narrative section on the second page of the survey. Ms. Lyon questioned whether a complainant would get to the second page to read the explanation. She suggested moving it to the beginning, possibly utilizing bulleted points, to introduce the explanation and show it to the complainant at the start of the survey. Mr. Merino indicated that in looking at the low satisfaction survey numbers, it could be concluded that the program is not being effective. Mr. Baker stated that in the narrative, there is a statistic revealing that 78% of the complainants were seeking a resolution that was outside of the Board's jurisdiction. He continued that if the complainant asked the Board to resolve an issue that is outside of the Board's jurisdiction, they should not be dissatisfied when it is determined that the Board cannot act on the issue.

Mr. Baker inquired that if the Legislature really wants the Board to be concerned about consumers, what is it that they want the Board to do that the Board is not able to do, and can the Board obtain authorization to begin to do those things. He continued that if they want the Board to have an affect and make some real change, then the Legislature needs to grant the authority for the Board to do something. Ms. Lyon reiterated that she is in favor of Mr. McCauley's idea to educate the complainant for issues that are outside of the Board's jurisdiction and direct them to the appropriate resource to pursue the matter. Mr. Merino suggested possibly creating a consumer bill of rights describing what the Board can and cannot do that is sent to the complainant upon receipt of a complaint and could be included in the Sunset Review Report for the Legislature to review.

Mr. McCauley continued with the enforcement program and reviewed the complaint disclosure policy. He stated that the policy was created by DCA for all of the boards to follow and determined when a complaint can be disclosed. He stated that complaints used to be disclosed early on in the process, but the policy now is to only disclose them if a citation is issued or a formal accusation has been issued from the AG's Office. He reported that sections on public outreach and online business will be in the report for the Board's final review in September.

Mr. McCauley reported on Part II, Final Recommendations, of the Sunset Review Report which is the final recommendations from the 2003 Joint Legislative Sunset Review Committee (JLSRC). He reviewed each of the issues and stated that number one's recommendation that the Board continue its regulation of the profession was the one the Board wanted from the Committee. He indicated that for issue number two regarding IDP, the Committee accepted that the Board needed an internship program, but a few interns had extensive comments and a significant number of questions about IDP and NCARB during the rulemaking process and the last Sunset Review hearing. He stated that in response to the questions and comments, the Committee included a sunset date for IDP, which meant that the Board's internship authority is removed on that date unless it is extended. He reported that the current draft of the 2010 Sunset Review Report explains the difference in IDP from 2003 until now and how it is vastly improved. Mr. Baker asked about the status in aligning Comprehensive Intern Development Program (CIDP) with the changes that are occurring in IDP. Mr. McCauley indicated that aligning CIDP with IDP is a daunting task and that there was a tracking document created for the Professional Qualifications Committee (PQC), but that it is still being worked on. Justin Sotelo indicated that staff are working on the document and it should be forthcoming soon for the Board's review once the new IDP Guidelines are available.

Mr. Baker then inquired as to whether candidates following CIDP have a risk of not obtaining compliance with IDP. Mr. McCauley reported that potentially that could occur, as new IDP changes are coming in the fall of 2010 and that it is difficult to have an overlay when the base program (IDP) is constantly changing. Mr. Baker indicated that it is a huge risk and suggested that the topic be brought back to the Board as a topic for discussion. Mr. McCauley indicated that a recommended solution to the CIDP/IDP alignment be brought to the Board at the September meeting. He stated that the PQC discussed the use of a tracking document; possibly utilizing an attachment to the CIDP Handbook. He continued that the document would address situations where an evidence requirement in CIDP is no longer an activity in IDP, such evidence would no longer be required by CIDP. Mr. Baker indicated that bringing the topic back to the Board for discussion would be helpful as he is concerned that CIDP is misguiding them on the wrong path that is not taking them to the correct destination.

Mr. McCauley reported that issue number three referenced the amount that is spent on enforcement and issue number four inquired about the CSE format. He added that those were all of the issues the JLSRC brought to the Board's attention with regard to Sunset.

Mr. Baker inquired about any necessity to discuss the CE program and its relevance to the Board. Mr. McCauley stated that SB 1608 is mentioned in the report and he checked with the staff at the Senate B,P and E,D Committee and whether the Board should address the CE issue more thoroughly.

He stated that the committee staff recommended that the Board not discuss the CE history issue more than what is contained in the report.

Mr. Merino inquired as to what constituted the 2010 Sunset Review Report and if part two contained the JLSRC's prior recommendations in the current report. Mr. McCauley indicated that the JLSRC's recommendations from the 2003 Sunset Review Report would be included in the 2010 report.

- **Sheran Voigt moved to approve the draft 2010 Sunset Review Report.**

Michael Merino seconded the motion.

The motion passed 6-0.

Mr. McCauley reported that the last issue for his EO report was about the proposed fee increases. He stated that the State and Consumer Services Agency (Agency) has been scrutinizing any fee increases in the current economic climate and staff is working to prepare for any questions they may have. He stated that the effective date for the fee regulation to be implemented will need to be extended from October 1, 2010 to January 1, 2011 to have adequate time to review the regulation package.

Mr. Chang explained that Agency is limiting the amount of a fund reserve to not exceed four months and that there were a couple of ways to address this. He stated that one way would be to lower the amount of the fee increase to comply with the four month reserve, which could result in proposing another fee increase sooner because it would cause the Board's fund balance to drop dangerously low to about one and one-half months or below quicker. He continued that another method is to extend the effective date that the fee increase is implemented, as a specific date later than what is proposed could be chosen to implement the fee increase. He explained that extending the effective date could be done by a Board motion.

Mr. Merino asked whether the budget could be reviewed to identify any possible cuts to keep the fund solvent. He stated that the fund situation appeared to be a request for additional resources versus a cost savings approach with cuts to the existing budget. Mr. McCauley stated that the proposal is a cautious approach, as the assumption is that the Board may not be able to make further cuts to its budget if it is to provide required services. Mr. Merino indicated that there is another way to look at the situation, as there is some concern that in an environment where the taxpayer/licensee does not have the money to pay because they are not making any money, we are asking them to give the Board more money. Ms. Lyon stated that the Board has increases in costs that are out of the Board's control. Ms. Voigt indicated that there will be an onslaught of paperwork to be processed from the licensees submitting their proof of CE completion. Mr. Merino indicated that this issue will be dealt with by the AIACC and that if the statistics are reviewed; there is more of an increase in enforcement action, but a decrease in the number of licensees because less people are going into the profession due to a decrease in the amount of income.

Mr. Baker agreed with Mr. Merino in that it is a tremendous strain on the Board to produce and function without appropriate resources, however, the reality is that the architectural profession is experiencing an extremely high unemployment rate. He stated that the Board, Legislature, and public agencies have the authority to increase their resources if they obtain enough votes for a proposal,

however, the individuals out there that are struggling to make a living do not have the same opportunity. He continued that it was the reason the Board had many discussions on whether the fee increase proposal could be delayed and implemented at a later date, tiered, or anything that could be done to mitigate it in the short-term to reduce the impact of the increases. Mr. Baker stated that in addition to the Board's proposal, the licensees with NCARB certification will also face increases as well causing further financial burden. He stated that there are plenty of reasons as to why the Board's fee increases are a good thing, but the reality with the current economic circumstances make supporting the proposal difficult. He also asked if there was anything else that could be done to delay the implementation of the fee increases just until the economic climate changes. Mr. Zeitlian stated that the latest proposal does request to delay the effective date of the fee regulation.

Mr. Chang corrected his prior statement in that if the Board decided to delay the effective date of the fee regulations, the Board could authorize it today and have Mr. McCauley make the language available for 15 days and, provided no adverse comments are received from the public in response to the modified text, the Board can authorize the change in the effective date. Mr. Merino asked if there was a way to put a time independent clause in the regulation proposal for the Board to authorize the fee increases when the economy turned, but that the Board would need to revote on the issue prior to implementation. Mr. Chang explained that such a clause is not a realistic possibility, as the regulatory proposal needs to be specific and the Board needs to decide whether to defer taking action on the fees and start the regulation process all over again at a later time when the economy improves and the Board is more comfortable in the decision to raise fees.

Mr. Baker stated that the Board could also put a new effective date on the existing regulation proposal to extend the implementation date. Mr. Chang agreed that the Board could put a new effective date on the proposal to delay the implementation of the fee increases. Mr. Zeitlian stated that when the Board began its discussions on the fee increases, it was over a year ago when the economy was better and was a different economic time. Ms. Lyon asked if it made a difference to delay the effective date to July 1, 2011. Mr. McCauley asked Anthony Lum if there were any issues with changing the effective date to July 1, 2011. Mr. Lum stated that the reason for the latest proposed fee increase effective date of January 1, 2011 was to capture all of the license renewals for 2011. Ms. Lyon asked if a February or March 2011 effective date would be appropriate. Mr. Lum indicated that if the effective date was delayed until February or March of 2011, there could be a backlash from licensees who had to pay the higher renewal fees after the effective date, as licensees who renewed prior to the implementation date would not be subject to the higher renewal fees until their next renewal.

Ms. Kirchmeyer introduced Janice Shintaku-Enkoji, DCA's Fiscal Officer, who helped provide the additional fiscal information. She stated that the latest fund condition projections show that without additional revenue, the Board's fund reserve will drop severely low to 0.8 months reserve by the end of fiscal year (FY) 2010/11. She explained that DCA's acceptable range for a board's fund balance is between three and six months and anything below is cause for concern and a critical need to generate additional revenue. She continued that the fund is projected to go into the negative by FY 2011/12 without additional revenue.

Ms. Lyon indicated that the Board knew the fund would be in peril months ago from the discussions that took place and does not want to place any hardships on the profession. However, she stated that

the Board has experienced increases in programmatic costs that are out of the Board's control and cannot be cut. Mr. Merino stated that the licensees are making hard financial decisions and that the Board may need to as well. He suggested informing DCA that the Board's budget is strained and may not be able to carry out all of its functions and if the Board raises its fees, it may not receive the anticipated revenue from the licensees because they may not be able to pay. He stated that with the hardships the profession is currently experiencing, licensees may opt to not pay the increased renewal fee. He suggested extending the effective date of the fee increases in the hope that the economy improves.

Mr. Baker stated that what the Board has learned in recent months is that the economy is going to take a longer time to recover than previously anticipated, especially in states like California, Florida, Nevada, and Arizona. He stated that the Board should look at the business model from a couple of years ago when the primary objective was to determine how to encourage licensure and keep individuals in the profession rather than having them go into other alternative professions. He indicated that the individuals that are at-risk the most are the next generation, newly licensed persons that have made the strategic decision to enter the profession, but may not be able to afford the fee increase. He is concerned that the decision to raise fees now may cause detrimental problems in the future in order to keep the younger licensees in the profession.

Ms. Voigt agreed with what Mr. Baker stated, but asked what services the Board is willing to give up in order to maintain a budget. She stated that as a cost-cutting measure, the Communications Committee changed the format of the newsletter to an electronic format that is now completely available online, which provided the Board a large savings. Mr. Baker asked that if the fee increases were not done, how would it affect the Board's existing programs, would initiatives that the Board is currently working on be postponed, and what could be done to relieve the burden on Board staff while also relieving the financial burden on licensees. Mr. McCauley stated that the Board had already experienced cuts, as Board staff had been furloughed for a year and a half, there were cuts in operating expenses and equipment (e.g., purchasing equipment and supplies, contracts, travel, etc.), and reductions in the contracts with many of the Board's vendors. He explained the Board only has measurable spending discretion in certain areas of the budget, including the architect consultant contracts and exam contracts. He continued that if the Board were to suspend the architect consultant contracts, the enforcement program could no longer review cases, as was done during the summer of 2008 when there was no state budget. He stated that if the Board knows in advance that it needs to save now in order to keep the fund solvent, an option to save money is to cancel exam administrations. Mr. Merino stated that it is a feasible area to discuss, as there may be a decreased demand for individuals to take the exam because of the cost in this economy. Mr. McCauley indicated that each of the exam administrations is completely full. Mr. Merino stated that he would like to obtain written alternatives from staff for cost reduction consideration and to save from one less exam administration in order to maintain fund solvency for an additional year as opposed to the fee increases for a reasonable alternative.

Mr. Baker stated that the change of the labor-intensive oral exam format to a multiple-choice, computer-based exam may also generate a reduction in cost. Mr. McCauley indicated that the projected savings from the exam transition was presented to the Board in a fund condition at the March 18, 2010 meeting and was the primary reason for the modified fee proposal from \$350 to \$300. Mr. Merino asked what the savings would be by reducing the number of exam administrations

by one per year and also moving the exam to a central location in the state. He continued that he thought most new licensees would prefer to eliminate one exam administration than to pay the proposed increase in their fees. Mr. McCauley indicated that he would need to research the amount of exam savings from eliminating one of the exam administrations.

Ms. Kirchmeyer stated that she appreciated the points that were made and the financial impact a fee increase would have on the licensees, however, there were two points that the Board needed to consider. She stated that the first point was that the Board may run into a cash flow problem with such a low fund reserve depending upon when the licensees actually renew their licenses that year. She continued that the second issue that needed to be considered was that the regulation proposal had already gone through a formal regulatory hearing process where it was publicly noticed and available to licensees. She stated that the Board also took into consideration the comments that were previously received when the modified proposal reduced the renewal fee increase from \$350 to \$300. She indicated that those public comment periods were the opportunity for the licensees to voice their opinions about the fee increases and indicated that there were no negative comments received on the proposal before you. Ms. Shintaku-Enkoji stated that the concern with a low fund balance is it could present a cash flow problem if there is not enough of a fund balance to pay for all of the program expenditures and recommended to avoid this scenario.

Mr. Zeitlian suggested postponing the fee proposal until the Board had a chance to investigate other alternative expenditure reductions to avoid a possible cash flow problem. He asked whether there are any committees that are redundant or other issues where reductions can be identified, as this issue may come back to the Board regardless of the fee increases. Ms. Lyon indicated that the budget and fee issue were discussed many times before in meetings and in the reports given to members. Mr. Baker stated that under the current circumstances that the licensees are under, the Board should demonstrate that they are willing to subject themselves to the same circumstances that the licensees are under. He continued that it would be wrong for the Board to alleviate its issues at the licensee's expense when their problems are significant. He stated that he did not want to see a situation where five years from now, the Board wondered where all of the next generation of young architects went because they had chosen to go into other professional fields. Ms. Lyon stated that the facts do not show that it is the case. She continued that when the profession had its opportunity to comment on the fee increase issue, they did not comment.

Mr. Chang stated that because the Board only collects revenue on renewals in every odd year, the original plan was to have the regulations take effect as of October 1, 2010 so it is in the law, have the renewals with the new fees printed up, and have everything in place by January 1, 2011 when the renewal cycle begins. He stated that by delaying the effective date to have it implemented in February or March 2011 may cause some inequity in the amount of fees paid by the licensees and if the Board delays it even further, it may jeopardize the opportunity to collect the fees for two years. He continued that with a new administration coming in the near future, new regulatory packages may not be permitted.

Kurt Cooknick stated that the fee issue was first discussed in 1995 and since that time until recently, there has been prosperity. He stated that when the fee increase issue recently was addressed by the AIACC board of directors; it voted unanimously for the Board to increase the renewal fee to the acceptable level of \$400 as a fee ceiling per renewal. He explained that the AIACC board is a very

large board comprised of licensees throughout the state that employ many other licensees and are aware of the current economic situation in the state and the nation. He continued that AIACC recognized that in order to continue to have the expected level of service from the Board, the licensees would have to pay for it. He stated that AIACC knew the \$200 fee would not cover all of the expected services, so when the Board proposed the \$300 renewal fee, it was acceptable and an appropriate amount as it was a \$50 increase per year. He stated that he understood Messrs. Baker and Merino's positions, but has not heard any comments from AIACC members whether they are associates, students, or practicing architects about the fee increases. He stated that members recognize and understand that it is a necessity to fund the licensing Board.

Haley Gipe agreed with Mr. Cooknick and stated that she is a licensee candidate and appreciated the Board's discussions on the fee issue and is aware of the increases. She indicated that while the Board is discussing the \$100 fee increase, NCARB has raised its fees without any open discussion. She explained that by the time the licensee is at the point to have to pay the \$300 biennial renewal fee, they would have already paid more for the ARE and is now subject to a fee increase for all of the services across the entire NCARB fee structure effective July 1, 2010. She continued that the NCARB fee increase effective date was just announced and that there was no advance warning of the increases prior to implementation. She stated that many individuals are aware of the Board's proposed fee increases including AIACC, many of the local AIACC chapters, and many of her acquaintances that are in the field. She informed the Board that she appreciated the sensitivity of the issue and the caution being noted for licensees; however, by the time someone is at the point where they need to pay the additional \$100 to renew their license, they had been through so much to obtain it that they will pay the fee. She stated that she had heard more negative comments about the increase to the ARE fees, which increased in October 2009, than she has heard in regard to the Board's fee increases. Ms. Lyon stated that the Board wants to be operational as a Board for the licensee, as it was their charge to get individuals licensed and to protect the consumer, but cannot do this if the Board is insolvent. Ms. Gipe stated that most individuals understand that in order for the Board to do its job of consumer protection, it needs appropriate funding.

Ms. Cochlan asked Mr. Chang what the next procedural action was that the Board needed to take on the fee increases. Mr. Chang stated that the Board had already adopted the regulations and if no further action was taken, the regulations would go forward in its current form and go into effect as of October 1, 2010. He stated that based upon new information that was received from Agency, the fee may need to be reduced and one method of doing so was to delay the effective date of the fee increase. He stated that this is simply done by modifying the language to change the effective date and issue a 15-day notice. He continued that based upon information received from the DCA Budget Office and staff, it is recommended to keep the fee at the proposed \$300, but to modify the effective date of the regulation to January 1, 2011. He stated that in order to do this, the Board would need to authorize the EO to make modified changes to the language and allow public comment for 15-days and if no adverse comments are received in that time, to authorize him to adopt the modified language making the regulation effective as of January 1, 2011.

Mr. Baker stated that his primary concern was for the entry-level individuals who may not have the resources to pay for the increases. He continued that after hearing the statements from Ms. Gipe, as a representation of those individuals, he did not want to do something that would drastically affect the entry-level person. Mr. Merino asked Ms. Gipe if she was currently working and if individuals she

knew who were out of work would agree with her opinion of paying the fee increases. Ms. Gipe stated that she was working, but experienced a pay reduction and four rounds of layoffs, and believed that her opinion would have a mixed result if her non-working colleagues were polled in regard to the fee increase. Ms. Gipe stated that it is important to realize that there is a sliding window as individuals who are taking the CSE now do not have to pay the increased ARE fees because they have completed them. She continued that individuals who have to pay the increased NCARB fees now will not be paying the Board's increased fees for another five years because the time frame in which a new graduate will be ready to take the CSE and have to pay the increased licensure fee is five-years in the future, unless the individual is extraordinary. She stated that it takes at least three years to complete IDP and have to sit for the ARE simultaneously and will not be able to take the CSE until both of those items are completed. She believed that individuals who are at the beginning stages of the licensing process will not be affected by the fee increases until a minimum of three years in the future and the people that the fee increase will affect are the ones who have completed school and the ARE and not affected by NCARB's new fee increases. Mr. Merino clarified that the individuals being discussed are those that are newly licensed and are trying to obtain a position in a firm as an architect.

- **Michael Merino moved to delay the effective date of California Code of Regulations (CCR), Title 16, section 144, Fees until January 1, 2012.**

There was no second on the motion.

Mr. Zeitlian asked how to phrase a motion to have the proposed fee regulation's effective date extended to the January 1, 2011 date recommended by staff. Mr. Chang stated that it would be a motion to modify the effective date of the proposed CCR, Title 16, section 144, fees, to make the effective date January 1, 2011 instead of October 1, 2010.

Mr. Zeitlian added that when the Board first reviewed the fee issue and looked at other boards' fees, the originally proposed increase of \$150 (to \$350) was not outrageous as compared to the fees other states charge their licensees. However, he stated that the country is facing the worst recession that he had faced in his career and if the Board could delay the implementation of the fee increase, it could allow more time for the economy to come back, although he did not believe the jobs would return as quickly. Mr. Merino indicated that the recommended proposal to delay the effective date of the regulations is not really a delay. Mr. Zeitlian asked if there were any savings by delaying the effective date of the proposed fee regulations. Richard Conrad stated that there are no renewals within the time frame of the recommended delay in the effective date. He stated that all of the renewals are completed in the odd calendar years and that there are no renewals from October 1, 2010 until December 31, 2010 because it is an even numbered year and the renewals do not begin until every odd numbered calendar year.

- **Hraztan Zeitlian moved to modify the effective date of CCR, Title 16, section 144, Fees to January 1, 2011.**

Jon Baker seconded the motion.

Mr. Zeitlian asked that if there were no savings from the delay of the effective date, what benefit was there for the recommendation. Mr. Merino stated that there are no savings for licensees for the three month delay because there are no renewals being processed during that time.

- **Mr. Zeitlian retracted his motion upon discovering that there was no savings benefit to licensees from delaying the effective date until January 2011.**

Ms. Shintaku-Enkoji explained that the license renewals are normally printed and sent between 60-90 days in advance of a licensee's expiration date and by delaying the effective date, it allowed more time to review and approve the regulation, plus have adequate time to print the new renewals.

Mr. McCauley asked Mr. Chang if the recommendation to delay the effective date was for legal and procedural purposes because the law would not be codified by the current effective date. Mr. Chang stated that the recommendation to delay the effective date was more procedural in nature because at this point, the regulation would not have enough time to be passed by the October 1, 2010 deadline. He stated that although it was only June 2010, there are still a number of parties that need to review the regulation package such as Agency, Department of Finance, which each can take up to 30 days for their review and approval. He continued that the regulation package then goes over to the Office of Administrative Law (OAL), where they take up to 45 calendar days to conduct their review and then is filed with the Secretary of State, which has an additional 30 days after the filing date to approve it. He stated that as the October effective date currently stands, OAL may not complete their review until mid-September and with an October first effective date, they may indicate that there is not enough time to obtain the appropriate approvals and the Board needs to extend the effective date. He stated that originally, the October first effective date was indicated to allow more time to print the renewals with the new fee, as many times, DCA will not print the renewals with the new fees unless the regulation is in effect. He continued that by extending the effective date, it will allow for the appropriate approvals and to print the renewals prior to the effective date.

Ms. Voigt asked if there was not a motion and the Board proceeded with the regulations, would there be a violation because the Board did not have the regulation prepared correctly. Mr. Chang stated that there would not be any violation, but by delaying the effective date until January 1, 2011, it allows for an appropriate amount of time to process the regulation and to print the renewals.

Ms. Shintaku-Enkoji stated that the delay would not affect the Board's revenue, as there are no renewals processed during the three month delay of the effective date, but would allow enough time for the renewals to be printed. Ms. Voigt wanted to clarify that the delay in the effective date is to allow adequate processing time of the regulation and that the October first effective date was not realistic. Mr. Chang stated that the October effective date was not a realistic effective date and in the processing of the information, Agency may have been under the erroneous assumption that the Board was continuously collecting fees. He stated that most boards continuously collect fees from their biennial renewal, but it is spread over a two-year time frame. He explained that the Board collects all of its renewal fees within a 12-month cycle, which is the reason why it is critical that if the Board is going to collect fees, a cycle cannot be missed. He continued that because the Board is unique in the collection of fees in a 12-month cycle, Agency made an assumption that the Board continually collected fees and that a four month delay in the effective date would slow the fee collection process.

Mr. Baker asked whether the Board had considered changing to collecting its fees on an annual basis, as the dollar amount of the fee would not be any different, but would significantly change the cash

flow to the Board. Mr. McCauley indicated that he did not believe the issue was ever addressed, but could be raised as a part of the Sunset Review process because the Board is allowed to make recommendations. Mr. Merino acknowledged that by doing so, it could stabilize some of the fiscal concerns for the Board. Mr. Chang stated that annual renewals can be a problem for the licensee, as they would need to renew their license every year, pay the fee annually, and complete their CE units annually for the renewal. He also indicated that most of the other boards have a biennial renewal process as opposed to an annual renewal process. Ms. Cochlan stated to save the discussion on the renewal process for another time, as it was a separate issue. Mr. Zeitlian asked if there still was a motion needed. Mr. Chang indicated that a motion was still needed to extend the effective date until January 1, 2011. Mr. Zeitlian reinstituted his motion to extend the fee effective date, which was seconded by Mr. Baker.

- **Hraztan Zeitlian moved to modify the effective date of CCR, Title 16, section 144, Fees to January 1, 2011.**

Jon Baker seconded the motion.

Mr. Baker stated that the reason for indicating the October 1st effective date was to allow adequate time for printing of the license renewal notices that will be sent later in the year and if the effective date is delayed until January 1, 2011, it will not change the amount of revenue, but may affect the ability to send license renewal notices with the new fees. Mr. Chang indicated that it may cause this printing problem, but everything will be done in order to get the regulation package through and hoped to obtain a decision by October from OAL. Mr. Baker stated that if the date is changed to January 2011, then the other issue of the law not being in affect arises. Mr. Chang stated that if the regulation is approved by OAL in October, the request can be made at the printers indicating that the regulation was approved by OAL and will go into effect as of January 1, 2011, so the renewals can be printed. He continued that originally with the October effective date, the plan was to have the approved regulation in effect so the printers could have the renewals ready to be sent to licensees for their January 2011 renewal. Ms. Voigt asked that if the Board decided to delay the effective date, would the printers delay in giving their final approval. Mr. Chang indicated that it would not because once OAL approved the regulation, the printing of the renewals can take place because as of January 1, 2011, the regulation will be law. Ms. Cochlan called for the vote on the motion to modify the effective date of the proposed regulation.

- **The motion passed 5-1 (Michael Merino opposed).**

Mr. Chang indicated that there should be a second motion to delegate to the EO the authority to adopt the modification to the regulation that was just adopted by the Board, provided the Board does not receive any adverse comments during the 15-day comment period.

- **Marilyn Lyon moved to delegate authority to the EO to adopt the modifications to CCR, Title 16, section 144, Fees, provided no adverse comments are received during the public comment period and make minor, technical changes, if needed.**

Sheran Voigt seconded the motion.

The motion passed 5-1 (Michael Merino opposed).

I. EXAMINATION COMMITTEE REPORT

Ms. Lyon presented the Examination Committee report and stated that the Committee met on May 17, 2010 in Anaheim. She reported that the Committee approved the November 16, 2009 and January 25, 2010 meeting summary reports, reviewed and discussed examination passing rates and candidate survey results from the January and March 2010 CSE administrations, and reviewed the Board's decision regarding the Committee's revised roles and responsibilities in response to the CSE being transitioned to a written, computer-based examination. She indicated that the roles issue originally arose at the Committee's January 2010 meeting and resulted in the Board's consideration at their meeting in March 2010. She stated that the roles and responsibilities took into consideration national standards governing examinations, the DCA's OPES examination development guidelines, and the roles of other DCA examination committees. She indicated that the Committee was provided a presentation by Bob Holmgren, Ph.D, Supervising Personnel Selection Consultant of OPES, on the examination development process and an updated status on the development services provided by OPES. She reported that the Committee also reviewed and took action on a CSE candidate request for review.

Mr. McCauley updated the Board on the exam development. He stated that one of the major initiatives for the Board is the CSE transition to a written, multiple-choice format in which the Board entered into an agreement with OPES for their exam development services. He indicated that in March 2010, the first exam item writing session was held and asked Mr. Holmgren give the details of the process.

Mr. McCauley reported that there are some role issues with the Examination Committee and the examination development process. He stated that some Committee members have been a part of the committee for a long time and were accustomed to the exam development process that had been in place during that time. He stated that with OPES, there is a similar, but new exam development process. He reported that OPES is spending a significant amount of time addressing the members' questions and concerns rather than writing items, reviewing them, and ultimately producing an examination. He stated that OPES representatives and himself met to review strategies to overcome this issue and decided to conduct a separate training with the Committee members so that they can ask questions about OPES' process, system, technology, and infrastructure to obtain their answers rather than taking the time at exam development workshops. He explained that the new exam development process has different Committee members and subject matter experts (SME) at each session of the process and that none should serve in successive workshops.

Mr. McCauley then introduced Mr. Holmgren of OPES to give the Board an update on the exam development process. Mr. Holmgren indicated that two typical two day workshops had been conducted to date and explained that OPES is the facilitator of the production of the entire exam process. He stated that at the first workshop a review of the existing exam materials was conducted and construction of new test items utilizing the exam plan. He explained that the exam plan is based upon an occupational analysis (OA) and OPES used the existing OA and test plan by design to keep the process moving. He continued that the test plan determined the number of items that will be used in a particular content area of the profession.

Mr. Holmgren explained that the first workshop was an item writing workshop where the participants received very focused training on what is expected of an item writer, are exposed to the resources and guidelines needed to be an item writer, directed where they should focus their item writing time to create items, and utilized a computer to generate exam items. He reviewed the detailed steps through the item writing process and stated that the initial goal is to create a large number of items, quantity over quality, and to write them at a higher cognitive level than simple recognition recall or memory. He stated that the end result from the workshop is an item bank which currently has about 180 test items.

Mr. Holmgren indicated that after the item writing workshop, there will be additional two-day workshops to review the items created in the first workshop. He explained that the SMEs will review the items and modify them accordingly and ensure that the correct answers are referenced somewhere in a reference book or a law and that incorrect answers are actually incorrect. He stated that the review sessions are mostly editing and proof-reading sessions to ensure that the items are appropriate for an exam. He indicated that once an adequate number of exam items have been created, the next workshop addressed the exam construction. He stated that the SMEs will take the available test items along with the test plan and actually construct the examination. He explained that a separate workshop would be a pass point setting workshop where the SMEs would review the exam, take it as if they were a candidate, and determine in advance what the pass point of the exam would be. He indicated that OPES utilized a pass point technique called the Modified Angoff Technique for the exam and the decision criteria for each of the exam items is basically a consensus of the SMEs to approve the exam item. He added that if one expert determined that an exam item is too hard, but another indicated that it is too easy, the item would be flagged and removed from the exam and replaced with another item. He stated that once all of the items had a pass point and a passing score had been established for the exam, it would be distributed to the computer-based exam vendor for candidates to take the exam. He stated that initially, there will be a delay for candidates to obtain their exam scores, as they prefer to hold the scores until the testing data can be analyzed to determine if all of the exam items are functioning correctly or for any other issues, but that eventually, candidates will obtain their results when leaving the testing facility. He indicated that OPES will monitor the statistics of the current test items and begin the process again by reviewing the OA to see if there is any reason for the test plan to change or be revised and recruit SMEs to begin writing additional test items to use for future exams.

J. ENFORCEMENT PROGRAM UPDATE

Ms. Johnson gave a presentation on the process of issuing administrative citations. She explained that a citation is an administrative document that included a monetary fine. She stated that the subject has the right to request an informal conference or administrative hearing in order to appeal the citation, but if they did not do anything, the citation becomes final 30 days after it is served and can no longer be appealed. She added that following the conference, the EO can affirm, deny, or dismiss the citation. She stated that if the EO affirmed or modified the citation, the subject has a right to request a hearing before an administrative law judge (ALJ) where the ALJ will make a proposed decision to affirm or dismiss the citation. She stated that if the citation is adopted, the subject has 30 days to pay the fine. She continued that if the subject is a licensee and he/she does not pay the fine, their license will not be renewed and the fine amount will be added to the renewal fee.

She added that if the subject is an unlicensed person and does not pay the fine, the subject's name will be referred to the Franchise Tax Board's (FTB) Intercept Program or a collection agency, once the Board is allowed to utilize one.

Ms. Johnson stated that Ms. Voigt would report on the April 26, 2010 Regulatory and Enforcement Committee (REC) meeting. Ms. Voigt reported that there was a presentation by Gil Deluna from DCA's Unlicensed Activity Program, Boards and Bureaus Relations Division, who reiterated that board enforcement programs were currently DCA's number one priority and focus. She stated the one of the main topics that was discussed with him was that most of the Board's cases were about unlicensed activity. She reported that the pending enforcement caseload has decreased by one-third. She stated that the REC reviewed the Board's Strategic Plan and the objectives set for the REC. She indicated that they discussed the appointment of a liaison to participate in the AIACC's discussions on Integrated Project Delivery and SB 1111 (McLeod).

She also indicated that the REC reviewed the Board's Enforcement Improvement Plan and the committee suggested some revisions to what the staff had in the plan. She stated that a copy of the revised plan was in the meeting packet for the Board's review and consideration [Agenda Item J(3)].

- **Sheran Voigt moved to approve the Enforcement Improvement Plan, as amended.**

Michael Merino seconded the motion.

Mr. Merino indicated that the Board had been directed to make improvements to the enforcement program and a key element to doing that would be to collect more of the citation penalties that the Board issued. He stated that the Board needed a mechanism that would allow the Board to be able to collect on the citation and fines and without the tools to do so, the enforcement efforts did not amount to much. He stated that one of the improvement goals and objectives in the 2010 Strategic Plan was to develop a method to be able to collect on the citation penalties. Ms. Voigt indicated that there was a method in place to use a collection agency, but there is a restriction on the release of SSNs. Mr. Merino indicated that if that is the case, then the issue needs to be reinstituted as a goal or objective to develop a method or tool to improve the collection of the citations and fines. He questioned as to why the Board took the time to enforce issues that the Board does not see any results from. Ms. Voigt stated that the Board does see results from its enforcement program when the issues are against licensed individuals. She continued that where the Board has no control over and is a big percentage of the enforcement cases, is the unlicensed cases.

Mr. McCauley indicated that the Board is not a unique entity in that regard and that the solution would have to be a cross-cutting solution that DCA takes the lead on and the Board would need to leverage the tools that are provided when the SSNs are disclosable. Mr. Merino stated that he agreed that it is a cross-cutting issue, but that the bigger issue is to have the ability to collect from unlicensed individuals for the citations and fines. He continued that the Board should request the tools and help from DCA to be able to collect the citations and fines without the use of the SSNs, as there could be other means to collect them than utilizing the SSNs. Ms. Kirchmeyer stated that the release of the SSNs was a part of SB 1111, but cannot be used because the bill died and other methods will need to be implemented in order to collect. She stated that it does require legislation because of what is stated in Business and Professions Code section 30(h). She continued that the Board is utilizing the

FTB and placing holds on the licensees that do not pay their fines, so the remaining problem to address is the unlicensed individuals. She stated that the method of choice is to use a collection agency, but it will require some type of legislation in order to pursue those individuals. Mr. Merino asked whether there were other provisions in the bill that caused the bill to fail other than the release of SSNs. Ms. Kirchmeyer indicated that the SSN release issue was not the cause of the bill failure and would need to seek legislation that solely focused on the SSN issue. Mr. Merino inquired whether the Board, as a DCA entity, could sponsor legislation to address the SSN issue. Mr. McCauley indicated that since it is a cross-cutting issue, the normal protocol was for DCA to take the lead and sponsor the legislation since it would affect other professions and trades. He inquired whether DCA was pursuing legislation containing some of the pieces within SB 1111. Ms. Kirchmeyer indicated that DCA has no current plans to pursue this type of legislation, but that she would include it in the legislative report, discuss it with the Division on Legislation and Policy Review, and possibly put it in a future bill.

Mr. McCauley suggested that it could be a topic placed into the Board's Sunset Review Report as a potential program improvement, in addition to legislation, to encourage the Senate B,P and E,D Committee to amend something into the Board's Practice Act. Mr. Merino agreed and indicated that possibly using both methods would work to achieve their goals with the increase in the unlicensed practice cases. Mr. McCauley clarified that what Mr. Merino would like to propose would be, "Continue efforts to enhance collections including leveraging DCA resources and seeking legislative solutions." Mr. Merino agreed that something along those lines could be proposed. Ms. Cochlan called for the vote on the motion to approve the Enforcement Improvement Plan.

- **The motion passed 6-0.**

Ms. Voigt asked if there was going to be any discussion in regard to posting accusations on the Board's Web site. Ms. Johnson stated that the posting of accusations on the Web site was a DCA directive and a copy of the memorandum from the DCA Director, Brian Stiger, was included in the meeting packet. She reported that, after a conference call with DCA's Office of Information Services, there is a target date of August 2010 to have the accusations and decisions posted on all of the boards' Web sites. She continued that only the current accusations and decisions needed to be posted and not the prior ones.

Mr. McCauley indicated that a semi-related issue that the Board had some public comment today was the posting of the addresses of records on the Board's Web site. He stated that the Board took action on the issue a year to year and a half ago, published an article in the newsletter about it, indicated that most other boards already post it and that some have a statutory requirement to post it, and that the Board gave due notice and ample opportunity for the licensees to utilize a post office box (POB) or other address to change their address of record. He stated that Mr. Cooknick had some comments on the issue.

Mr. Cooknick stated that the process of notifying the licensee's about posting their address of record on the Board's Web site was done correctly. He stated that there was some concern from one of their 22 chapters in California about the posting of the address of record and requested the Board to revisit the issue and entertain a discussion of exploring alternatives on this issue. Mr. McCauley inquired as to the number of inquiries on this issue that the chapter received. Mr. Cooknick estimated that it was

less than three individuals who are concerned with the issue. Mr. Baker clarified that this is an issue of licensees having their personal addresses posted on the Board's Web site, but that they have the option of utilizing a POB, so there should not be an issue. Mr. Cooknick indicated that the source of the concern came from individuals who are sole practitioners and utilize their residence as their place of business, but could use a POB as a solution to the issue. Mr. McCauley indicated that no action could occur on this issue, as it was not an issue on the meeting agenda. Mr. Chang indicated that the Board could make a note of the issue and discuss whether to place it on a future meeting agenda or not. Ms. Cochlan indicated that the Board would defer it until the end of the meeting.

Ms. Johnson then reported on the architect consultant contract. She stated that Robert Carter's consultant contract is set to expire at the end of June 2010, so a Request for Proposal (RFP) was distributed and the Board received three proposals in response to the RFP. She stated that only one candidate received an overall technical score of 30 points or more from the first phase of the evaluation that consisted of two phases of the total process. She continued that on May 18, 2010, the Evaluation Committee that consisted of Mr. McCauley, Vickie Mayer, and Ms. Johnson interviewed the successful candidate and Robert Carter was selected as the awardee of the contract. She stated that a copy of the contract is in the meeting packet and the request is for the Board to approve the architect consultant contract in anticipation of processing by the DCA and Department of General Services. Mr. Merino asked that Mr. Carter's technical score was at least 30, but what were the scores of the other candidates. Ms. Johnson and Mr. McCauley indicated that the other candidates' scores were well below 30.

Ms. Johnson informed the Board that Barry William's consultant contract would be expiring at the end of February 2011, so another RFP will need to be prepared soon and the Board will need to review and approve a contract proposal at that time.

- **Sheran Voigt moved to approve the architect consultant contract.**

Hraztan Zeitlian seconded the motion.

The motion passed 6-0.

K. UPDATE ON MAY 20, 2010 COMMUNICATIONS COMMITTEE MEETING

Ms. Voigt reported that the newsletter is now completely online in an electronic format for the first time. She stated that the new format would save the Board money by not having to print and mail it and pre-empted some concerns of its availability by sending out advance notice postcards to all of the licensees, including individuals who have not been licensed for the past five years, and other interested parties. She stated that individuals who would like to receive future updates need to opt into the new email notification list in order to be informed of future events or issues. She added that the postcards would be continued for a short time so that more individuals are notified to get on the email notification list. She reported that the Committee reviewed the articles that would be in the next newsletter and reviewed the Strategic Plan and decided that all of the objectives in the plan could be completed within their time constraints.

L. LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE (LATC) REPORT

Ms. Anderson reported that the LATC met on April 23, 2010 at the University of Southern California (USC), which is the newest landscape architect school location in the state, if not the nation. She stated that Council of Landscape Architectural Registration Boards had begun its exam development process, which is cyclical, and have requested volunteers for their task analysis. She reported that there is at least one volunteer from California that will be sitting on that committee and are hoping for more. She stated that LATC is having similar issues that the Board is having such as spending restrictions, and in review of the Strategic Plan, are working to emphasize the program's core issues. She stated that the Committee spoke to the faculty at USC and found out that the landscape architect and architect programs are working in a cohesive fashion. She reported that LATC is finalizing the work of their Education Subcommittee. She stated that LATC elected new officers and that Stephanie Landregan is the Committee's Chair and that she is the Vice-Chair for the upcoming year.

Mr. McCauley reported that LATC was doing additional work focused on the exempt area of practice. He stated that after the last Sunset Review, the LATC modified that section of statute after convening a task force of landscape architects, garden designers, etc. and achieved consensus on the language.

Ms. Voigt was impressed with the Plan in that they dealt with the fiscal restraints on their budget directly by indicating that they do not have the funding to complete the Committee's objectives. Ms. Anderson indicated that the Committee not only dealt with the fiscal restraints, but also the loss of staff, which made it difficult for the Committee to complete many of their tasks.

- **Sheran Voigt moved to approve the 2010-11 Strategic and Communications Plan.**

Michael Merino seconded the motion.

The motion passed 6-0.

M. NATIONAL COUNCIL OF ARCHITECTURAL REGISTRATION BOARDS (NCARB)

Mr. McCauley reported that the NCARB Annual Meeting was next week where a number of resolutions will be discussed and voted upon. He stated that the Board considered the resolutions at its March meeting and did not find any issues that were controversial. As such, he said it chose not to take a position on any of them and to assess what happened at the Western Conference of Architectural Registration Boards' (WCARB) meeting. Mr. Baker indicated that there was minor edits made to the resolutions, but nothing more to report from the WCARB meeting. The Board agreed upon the following positions that the Board would convey at the Annual Meeting:

Resolution 2010-1 (Support)

Handbook for Interns and Architects Amendment – Elimination of the Reciprocal Credentialing Opportunity Requirement for BEFA Eligibility

Resolution 2010-2 (Support)

Handbook for Interns and Architects Amendment – Reducing Notice period for IDP and Education Standard Requirements from 90 days to 60 days

Resolution 2010-3 (Support)

Handbook for Interns and Architects Amendment – Revising the Alternative to IDP

Resolution 2010-4 (Support)

Bylaws Amendment – Providing for a Chief Executive Officer and Making Related Changes

Resolution 2010-5 (Support)

Bylaws Amendment – Modifying Indemnification Provisions

- **Michael Merino moved to support the NCARB recommendations on the resolutions.**

Marilyn Lyon seconded the motion.

The motion passed 6-0.

Mr. McCauley reported that there was a related issue that is not a resolution, but NCARB is looking to change the process for the Broadly Experienced Architect Program where the validation of experience occurs. He stated that presently, there is a dossier process where a candidate is interviewed by a panel to gain knowledge of the types of firms in which they have worked, what specific tasks were done, and a portfolio review as well. He stated that NCARB could change the format and is trying to do it quickly so it does not have to go through a broad policy change and be voted upon by the members through a resolution. He indicated that Mr. Baker noticed the attempt of a quick change as well as the Texas Board of Architectural Examiners, which wrote an official document to NCARB requesting that they slow down, review the issue more completely, and explain to the membership more fully how there are assurances that the experience is being validated. He continued that NCARB is trying to remove the interview and portfolio review process and then have the candidate sign a declaration as to what experience they have. Mr. Baker added that he believed NCARB was also requiring some type of third party certification from another architect. He stated that the connection that is present in the current interview system would be lost and that during the interview process in several instances, it was found that the candidate was minimally involved in the work they submitted, if at all. He stated that the removal of the interview process for this issue may not be the best of ideas.

Mr. McCauley indicated that he did not know how the issue will manifest itself at NCARB, but there will be many discussions on the issue at the regional meetings and could possibly hear about it at the board of directors level. Ms. Voigt asked whether the issue would affect the ability of the candidates to pass the ARE, since some have not actually done the work. Mr. Baker clarified that these types of candidates do not have to take the ARE, as the Broadly Experienced Architect program is for individuals that are coming into the state who do not have an accredited degree that have practiced for a number of years and can demonstrate that they have already been working in the profession.

N. **REVIEW OF TENTATIVE SCHEDULE**

Mr. McCauley stated that the members had the DCA training on July 27, 2010 and he would check with the Executive Committee members to see if another Sunset Review meeting would be warranted. He reported that the next Board meeting was on September 15, 2010 in southern California and would be the last opportunity for the Board to review the Sunset Report before it is submitted to the Legislature. He added that the last meeting for the year to address the Strategic Plan is scheduled for December 15 – 16, 2010 in San Diego.

O. ADJOURNMENT

The meeting adjourned at 2:00 p.m.

**Agenda items for this meeting were taken out of order to accommodate the lack of a quorum and public comment. The order of business conducted herein follows the transaction of business.*